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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA AT ANCHORAGE

UNITED STATES OF AMERICA,

Plaintiff,

v.

AARON HICKS,

Defendant.

Case No. A93-002-4 CR

**MOTION FOR LEAVE TO
WITHDRAW AND
SUBSTITUTION OF
APPOINTED COUNSEL**

Davis Wright Tremaine LLP ("DWT") moves for leave to withdraw as counsel
for Defendant Aaron Hicks in light of the Court's request to the Federal Public
Defender to appoint substitute counsel for Mr. Hicks. *See, e.g.*, LR 11.1(c)(ii).

1 Further, and in the alternative, good cause exists to grant leave to withdraw under LR
2 11.1(c)(1)[A](iii) and LCrR 44.1(b)(2) because DWT has fulfilled the scope of its
3 agreed-upon pro bono representation of Mr. Hicks. This motion is supported by the
4 Declaration of Lissa W. Shook ("Shook Declaration"), which is being filed
5 concurrently.
6

7 By Order dated April 3, 2007, this Court requested that the Federal Public
8 Defender designate counsel to represent Mr. Hicks in his resentencing. *See* Docket No.
9 962. DWT had previously discussed representation of Mr. Hicks with Mr. Curtner of
10 the Federal Public Defender of the District of Alaska, who indicated the willingness of
11 his office to represent Mr. Hicks for purposes of his resentencing upon being appointed
12 as counsel of record. *See* Shook Declaration ¶ 5. DWT has already provided the
13 Federal Public Defender with a financial affidavit signed by Mr. Hicks establishing his
14 indigency. *See id.* & Exhibit C to the Shook Declaration. In light of the Court's request
15 that the Federal Public Defender designate substitute counsel for Mr. Hicks, and
16 because notice has been given to all parties, including Defendant, the Court may grant
17 DWT leave to withdraw pursuant to LR 11.1(c)(1)[A](ii).
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21 In addition, good cause exists to grant leave to withdraw because DWT has
22 discharged the scope of its undertaking with Mr. Hicks. *See* LR 11.1(c)(1)[A](iii);
23 LCrR 44.1(b)(2). The scope of DWT's pro bono basis representation of Mr. Hicks was
24 set forth in the engagement letter that he signed on April 3, 2006. A copy of that letter
25 is attached as Exhibit A to the Shook Declaration. As stated in the engagement letter,
26

1 DWT agreed to represent Mr. Hicks through the completion of his Ninth Circuit appeal,
2 and then to withdraw and no longer represent him. *See id.* at 1. On January 11, 2007,
3 the Ninth Circuit issued its opinion in Mr. Hicks' appeal granting the relief requested,
4 and the matter is now concluded before that Court. A copy of the Ninth Circuit's
5 decision is attached as Exhibit B to the Shook Declaration. Consequently, DWT has
6 satisfied the scope of its agreed-upon representation and now seeks leave to end that
7 representation pursuant to the terms of its agreement with Mr. Hicks.
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9

10 In light of the foregoing, DWT respectfully requests that the Court grant DWT's
11 motion for leave to withdraw, and substitute the designated Federal Public Defender as
12 counsel to represent Mr. Hicks.
13

14 DATED this 4th day of April, 2007.

15 DAVIS WRIGHT TREMAINE LLP
16

17 By: /s/ Lissa W. Shook

18 LISSA W. SHOOK

19 Washington State Bar No. 35179

20 ROBERT K. STEWART

21 Alaska Bar No. 8506082

22 *Attorneys for Defendant Aaron Hicks*
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CERTIFICATE OF SERVICE

I, Lissa W. Shook, certify that on the 4th day of April, 2007, I caused the foregoing **MOTION FOR LEAVE TO WITHDRAW AND SUBSTITUTION OF APPOINTED COUNSEL** to be filed with the Clerk of the U.S. Court for the District Court of Alaska using the CM/ECF system which will send electronic notification of such filing to the following parties:

Counsel for the Government:
David A. Nesbett
E-mail: david.nesbett@usdoj.gov

U.S. Attorney General for Alaska
E-mail: usaak.ecf@usdoj.gov

Notification also was served by U.S. Mail upon the following:

Mr. Aaron Hicks
#12377-006
FCC U.S.P.
P.O. Box 1033
Coleman, FL 33521

Mr. F. Richard Curtner, III
Federal Public Defender
550 West 7th Avenue, Room 1600
Anchorage, Alaska 99501

DATED this 4th day of April, 2007 at Seattle, Washington.

/s/ Lissa W. Shook
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